

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

MARTIN J. WALSH,¹
Secretary of Labor,
United States Department of Labor,

Plaintiff,

v.

LOCAL 41, INTERNATIONAL
BROTHERHOOD OF TEAMSTERS,

Defendant.

Civil No. 4:18-cv-00381-HFS

CERTIFICATION OF ELECTION BY UNITED STATES DEPARTMENT OF LABOR

The election having been conducted in the above matter under the supervision of the Secretary of Labor, United States Department of Labor, pursuant to the Court's Judgment and Order entered February 10, 2020, in the United States District Court for the Western District of Missouri, Western Division, in accordance with the provisions of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (29 U.S.C. §§ 481-483), and in conformity with the constitution and bylaws of the defendant labor organization, insofar as lawful and practicable, therefore:

Pursuant to Section 402(c) of the Labor-Management Reporting and Disclosure Act of 1959 (29 U.S.C. § 482(c)), and the authority delegated to me,

IT IS HEREBY CERTIFIED that the following named candidates have been duly elected to the offices designated:

¹ Because the Secretary of Labor has changed since this case first began, the caption reflects the current Secretary of Labor. See Fed. R. Civ. P. 25(d).

Ralph Stubbs	President and Business Representative
Susan Barthol-Turner	Vice President
Jon Flinn	Secretary-Treasurer
Jeff Dossett	Recording Secretary
Preach Haynes	Trustee
Robert Walker	Trustee
Bennie Patchen	Trustee

Attached herewith is a declaration setting forth the allegations in two protests of the supervised election and the Department of Labor's findings after investigating the protests.

Signed this 11th day of May 2021.



Tracy L. Shanker, Chief
Division of Enforcement
Office of Labor-Management Standards
United States Department of Labor

MARTIN J. WALSH,¹
Secretary of Labor,
United States Department of Labor,

Plaintiff,

v.

LOCAL 41, INTERNATIONAL
BROTHERHOOD OF TEAMSTERS,

Defendant.

LOCAL 41, INTERNATIONAL)
BROTHERHOOD OF TEAMSTERS,)
)
Defendant.)
)
_____)

I, Tracy L. Shanker, am the Chief of the Division of Enforcement, Office of Labor-Management Standards (“OLMS”), United States Department of Labor (“Department”). The Department supervised an election of officers of the International Brotherhood of Teamsters, Local 41, (“Teamsters Local 41”), which was held on November 19, 2020, pursuant to the Court’s Order and Judgment dated February 10, 2020, from the U.S. District Court for the Western District of Missouri (“the supervised election”).

¹ Because the Secretary of Labor has changed since this case first began, the caption reflects the current Secretary of Labor. *See* Fed. R. Civ. P. 25(d).

A. Election Process

Due to the ongoing COVID-19 pandemic, the parties agreed to postpone the new election and that the Department of Labor would supervise the next regularly scheduled election of officers in the fall of 2020 in accordance with Title IV of the Labor-Management Reporting and Disclosure Act (“LMRDA”).

On August 11, 2020, via Microsoft Teams, OLMS held a pre-election conference to establish the supervised election rules. All interested parties were invited to attend, including union officers, election committee members, and candidates. Following the meeting, OLMS mailed out the agreed upon “General Rules for Electing Officers In Teamsters Local 41 Kansas City, MO” to all interested parties. On September 10, 2020, the notice of nominations was mailed to all members. It was also posted on the Local 41 website, Facebook page, and at members’ work sites.

On October 10, 2020, the nominations meeting was held at 10:00 a.m. at the Teamsters Local 41 union hall, at 4501 Emanuel Cleaver II Boulevard, in Kansas City, Missouri, in accordance with the Teamsters Local 41 Constitution and Bylaws. OLMS Election Supervisor Elizabeth Growney supervised the conduct of the nominations. Teamsters Local 41 President Ralph Stubbs chaired the meeting and, upon opening the floor for nominations, Stubbs turned over the chair to Teamsters Local 41 Attorney Mike Amash to run the nominations. All those who made nominations and seconds were eligible to do so. All nominees requested candidate eligibility confirmation letters from the local prior to the nomination meeting and were declared eligible. The meeting was then closed and a candidate meeting was immediately held. Packets of candidate information were distributed to all candidates. Candidates completed forms for contact information, candidate certification, and slate declarations. A drawing was held for

ballot placement, with a candidate from the Stubbs Team 41 slate drawing a number. The drawing resulted in the We've Had Enough slate being placed in the first position on the ballot.

On October 21, 2020, the ballot packages, including the election notice, were printed, assembled, and mailed from Metro Print & Mail located in Sacramento, California to all members at their last known home address. The process was observed by SFDO Investigator Regina Diaz. A total of 6,110 ballot packages were mailed to members. Beginning October 27, 2020, until November 17, 2020, P.O. Box 413143 was checked every Tuesday and Thursday at 10:00 a.m. for undeliverable return ballot packages. For all undeliverable packages received, a new address was found and the ballot package resent. In total, 257 ballot packages were re-mailed prior to the ballot tally. Members made duplicate ballot requests by contacting OLMS Election Supervisor Grownney. Once received, such requests were added to True Ballot's online database and True Ballot sent out a new ballot package. In total, True Ballot fulfilled 35 duplicate ballot requests.

On November 19, 2020, the ballot tally was held. Election Supervisor Grownney met Observer Bruce Frakes and Local 41 Election Committee Members Joe Monslow, Chad Anders, and John Ackerman at the post office located at 300 W Pershing, in Kansas City, Missouri, at 10:00 a.m. Together they collected the voted ballots from P.O. Box 410769. They also checked with a postal employee on duty, collected the overflow ballots, and asked her to ensure that there was no overflow elsewhere. Once the post office assured them that they had all available voted ballots, Election Supervisor Grownney transported the ballots to the Local 41 union hall to be tallied. The Local 41 Election Committee, OLMS Investigator Tim Scharr, and True Ballot Representatives conducted the tally.

A total of 1,522 voted ballot packages were returned. Prior to opening them, True Ballot verified voter eligibility by scanning the barcodes on the outer envelopes, which were tied to the membership list provided by the IBT International. Of the returned packages, 101 were not on the eligibility list. After double-checking with the union, 33 were declared eligible, and 68 were not eligible and set aside. Further, two packages were challenged and set aside because they were returned in envelopes that did not include a barcode. Once all voters were verified, there were 1,452 ballots to count. All of those outer envelopes were opened and the secret ballot envelopes and ballot stubs were removed. The secret ballot envelopes were then opened and the ballots removed. True Ballot electronically counted the ballots. Nine unresolved challenged ballots were set aside and not counted because they included both slate votes and votes for individual candidates. A total of 1,443 ballots were counted.²

The complete results were as follows:

Office	Candidate	Votes	Margin
President & Business Representative	Ralph Stubbs (I)*	839	239
	Henry Martinez	600	
Vice President	Susan Barthol-Turner (I)	844	258
	Darin Sturm	586	
Secretary-Treasurer	John Flinn (I)	836	244
	Jason Crow	592	
Recording Secretary	Jeff Dossett (I)	829	228
	Alexandra LeSturgeon	601	

² True Ballot's report shows that 1,444 ballots were counted because one of the nine ballots that included both slate and individual votes went through their scanner. Even though it went through the scanner it was flagged and challenged.

Trustees (3)	Preach Haynes (I)	845	219
	Robert Walker (I)	834	
	Bennie Patchen (I)	824	
	Carlos Mitchell	605	
	Daryl Alvarez	603	
	David Figous	578	

* **Bolded** name denotes winner, and (I) denotes incumbent.

Local 41 posted the election results at the union hall, on the Local 41 website, and announced the results at the next November 21, 2020 membership meeting. The winning candidates were installed on March 20, 2021 in accordance with the general rules established at the pre-election conference.

B. Election Protests

Election Supervisory Growney received one informal pre-election protest and one formal pre-election protest prior to the ballot tally.

1. Informal Pre-Election Protest

On September 8, 2020, a candidate called OLMS about an issue he had with his employer disciplining him for campaigning while at work, which he denied. The candidate believed the employer did this because his employer supported the incumbents and he filed a grievance against the company regarding this issue.

Section 401(g) of the LMRDA, 29 U.S.C. § 481(g), provides in pertinent part that “no moneys of an employer shall be contributed or applied to promote the candidacy of any person in any election subject to the provisions of” the LMRDA. Election Supervisory Growney investigated this allegation. She spoke with the candidate, with Local 41 Steward Andrew

Castelleja and with other Local 41 officers and was unable to substantiate that a campaign violation occurred. Election Supervisory Growney cautioned all parties against inappropriate campaigning. No violation of the LMRDA occurred.

2. Formal Pre-Election Protest

On October 29, 2020, a Local 41 member emailed Election Supervisor Growney inquiring about public information regarding the Court ordering the supervised election. The member also stated that he was surprised at how little detail was made available to his coworkers about why the special election was being held. Election Supervisor Growney provided the member with the Court's February 10, 2020 Judgment, including the case number. She advised him that he could contact the court clerk for the Western District to receive more information that was publicly available.

On November 3, 2020, the same member sent another email objecting to the supervised election scheduled for November 19, 2020, stating his concerns that there was a lack of transparency and that the membership had not been fully informed about the new election or provided an explanation of why the 2017 election had been overturned. The member complained that neither he nor his coworkers heard about the court-ordered new election until they received their ballot packages. As a follow-up to his email, the member called Election Supervisor Growney and stated that he hoped to do whatever he could to delay the current election and make the incumbents look bad. Regarding some of his concerns, Election Supervisor Growney explained to him that he had not alleged an LMRDA violation and the parties did not plan to stop or delay the election.

Regarding his allegation that he and his coworkers did not know of the election until they received ballots, Section 401(e) of the LMRDA requires that members be given a reasonable

opportunity to nominate candidates. 29 U.S.C. § 481(e). To meet this requirement, a labor organization must give its membership timely notice of the opportunity to nominate candidates in the election and the notice must be reasonably calculated to inform all members in good standing. *See* 29 CFR § 452.56. This standard was met in November 19, 2020 election. The Department's records confirmed that on September 10, 2020, OLMS mailed the notice of nominations to all members. The nominations notice was also posted on the Local 41 website, Facebook page, and at employee work sites in accordance with the election rules. The notice was therefore reasonably calculated to inform all members and, in combination with the other adequate safeguards insured by OLMS and the union, provided a reasonable opportunity to nominate candidates. There was no violation of the LMRDA.

C. Conclusion

The Department has concluded from its investigation of these election protests that Teamsters Local 41's November 19, 2020 election of officers, conducted under the Department's supervision, complied with Title IV of the LMRDA and was conducted, insofar as lawful and practicable, in accordance with Teamsters Local 41's constitution and bylaws and the LMRDA. Therefore, the results of this supervised election should be certified by the Court.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 6th of May 2021, in Rockville, Maryland.



Tracy L. Shanker, Chief
Division of Enforcement
Office of Labor-Management Standards
United States Department of Labor